

In the Indiana Supreme Court

CAUSE NUMBER: 94S00- -MS-

ORDER AMENDING ADMINISTRATIVE RULES

Under the authority vested in this Court to provide by rule for the procedure employed in all courts of this state and this Court's inherent authority to supervise the administration of all courts of this state, Rules 1, 2, 5, 4, 6, 7, 8, 14, and 17 of the *Indiana Administrative Rule* are amended to read as follows (deletions shown by ~~striking~~ and new text shown by underlining):

INDIANA ADMINISTRATIVE RULES

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Rule 1. Preparation and Filing of Statistical Reports

(A) **Preparation of Forms.** The ~~Executive Director, of the~~ Division of State Court Administration (Division), pursuant to these rules and IC ~~33-2-1-7~~ 33-24-6-3, shall draft forms to be used in the gathering of statistical data and other information and shall submit the proposed forms to the Supreme Court for approval. After the Supreme Court approves ~~the forms have been approved by the Supreme Court, they~~ the Division shall will be distributed the forms to all courts to be used in preparation of reports.

(B) **Quarterly Case Status Reports.**

(1) All trial courts shall prepare quarterly case status reports, on forms approved under the provisions of Administrative Rule 1(A), concerning the judicial work of their respective courts. The last day of the reporting period for the quarterly case status reports shall be March 31, June 30, September 30, and December 31.

- (2) The judge of the trial court may require clerks, court reporters, or any other officer or employee of the court to furnish the information needed to prepare the ~~quarterly case status~~ reports.
- (3) The ~~judge of the trial court shall cause the~~ quarterly case status reports ~~shall to~~ be filed with the ~~Indiana Supreme Court~~ Division no later than ten (10) calendar days after the end of the reporting period in electronic format as established by the Division. ~~The reports may be filed by mailing them to the Division of State Court Administration, Room 323 State House, Indianapolis, Indiana 46204.~~
- (4) Each defendant charged with one or more offenses arising out of the same incident or multiple incidents to be tried as one case shall be assigned one case number, regardless of the number of counts or citations charged against the defendant. The case shall be designated as a MR – Murder, FA – Class A Felony, FB – Class B Felony, FC – Class C Felony, FD - Class D Felony, CM - Criminal Misdemeanor, MC - Miscellaneous Criminal, IF - Infraction, OV - Local Ordinance Violation, or OE - Exempted Ordinance Violation and shall be counted as one case on the quarterly case status report. When the defendant is charged with multiple charges involving different case type categories, the case number shall be designated so as to reflect only the most serious charge. This method of assigning case numbers is intended for administrative purposes only.

(C) Probation Reports.

- (1) All probation officers or probation departments shall compile and prepare reports on the information required by IC 11-13-1-4 concerning the work of the respective office. All probation officers or probation departments shall file, on forms approved pursuant to the provisions of Administrative Rule 1(A), the following reports:
 - (a) Quarterly statistical reports. The last day of the reporting period for the quarterly reports shall be March 31, June 30, September 30, and December 31.
 - (b) An annual operations report. The reporting period for the annual operations report begins on January 1 and ends on December 31.
- (2) The quarterly statistical reports and the annual operations report shall be filed with the ~~Indiana Supreme Court~~ Division no later than ten (10) calendar days after the end of the reporting period, in electronic format as established by the Division. ~~The~~

~~reports may be filed by mailing them to the Division of State Court Administration, Room 323 State House, Indianapolis, Indiana 46204.~~

(3) Every trial judge or chief judge of a unified court system shall require the probation officer or probation department subject to the judge's direction and control to comply with these reporting requirements.

(D) **Judge's Signature Confirmation of Reporting.** The judge of the court or the chief judge of a unified court system shall review all reports and confirm, through a process established by the Division, the completion and filing of all reports. ~~sign all quarterly caseload reports and all quarterly probation reports, or if reports are filed electronically, the judge of the court or the chief judge of a unified court system shall sign a verification of reports provided by the Division of State Court Administration.~~

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Rule 2. Reporting Fiscal Matters

(A) **Preparation of Fiscal Reporting Forms.** The Division of State Court Administration (Division), pursuant to these rules and IC 33-24-6-3, shall draft forms to be used in the gathering of revenue, budget and expenditure data from the courts and shall submit the proposed forms to the Supreme Court for approval. The revenue report forms shall collect data on the revenues generated by the operation of the courts within the county, the categories for which monies were collected, the amounts collected in each category, and how the collected funds were distributed. The budget and expenditure forms shall collect data on the requested budgets of the courts and their offices for the upcoming calendar year, the approved budgets for the courts and their offices for the upcoming year, the actual expenditures of the court and their offices during the previous calendar year, specifying the categories for which funds were requested, approved and spent.

After the Supreme Court approves the forms the Division shall distribute the forms to all courts to be used in preparation of reports. All trial courts shall prepare, on forms approved under the provisions of this rule, fiscal reports on the receipt and expenditure of public money by and for the operation of the courts.

~~(A)~~(B) **Report of Clerk on Revenues.** Within ten (10) days after the close of the calendar year, the Clerk of the Court shall report to the judge of the court, or chief judge of a unified court

system, ~~the total receipt of revenue generated by operation of the courts within the county during the calendar year. The clerk's report shall specify the general categories for which monies were collected and the amounts collected in each category; the report shall further specify how the revenues were distributed.~~ all information necessary for the completion of the revenue report form. In the case of a City or Town Court, ~~if there is no clerk, the judge of a City or Town Court shall prepare such report.~~

C. Report of Judge. The judge of the trial court shall cause the fiscal reports to be filed with the Division no later than twenty (20) days after the end of the calendar year for the reporting period in electronic format as established by the Division. ~~Within twenty (20) days after the end of the calendar year, the judge of the court or chief judge of a unified court system, shall file with the Supreme Court of Indiana a copy of the following documents:~~

- ~~(1) The report on revenues prepared under Administrative Rule 2(A) above;~~
- ~~(2) The requested budget for the operation of the court(s) for the upcoming calendar year, specifying the categories for which funds were requested and the amount requested in each category;~~
- ~~(3) The approved budget for the operation of court(s) for the upcoming calendar year, specifying the categories for which funds were provided and the amount provided in each category; and~~
- ~~(4) The actual expenditures of the court during the previous calendar year, specifying the general categories for which funds were expended and the amounts expended in each category.~~

(B)(D) Judge's Signature Confirmation of Reporting. The judge of the court or the chief judge of a unified court system shall review all reports and confirm, through a process established by the Division, the completion and filing of all reports. ~~sign all fiscal reports required by this Rule.~~

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Rule 4. Committees

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(D) Indiana Supreme Court Planning Committee on Self-Represented Litigants.

(1) Creation, Members and Staff Support. There is hereby created a committee to be known as the Indiana Supreme Court Planning Committee on Self-Represented Litigants. The committee shall consist of members representative of the Indiana judiciary, the practicing bar, academia, state and local government and public organizations. The Supreme Court shall appoint the members and shall appoint one of them as chair of the Committee. Except for initial terms, which shall be staggered, the term of each member and chair shall be three (3) years. The members shall serve at the pleasure of the Supreme Court. The Executive Director and staff of the Division of State Court Administration shall assist the Committee in the performance of its duties.

(2) Duties of the Committee. The Indiana Supreme Court Planning Committee on Self-Represented Litigants shall conduct a continuous study of the practices, procedures, and systems for serving self-represented litigants in Indiana courts. The Committee's charge includes but is not limited to providing a long-range strategy for improving access to justice for self-represented litigants. Such strategy may involve development of protocols for judges, clerks, and their staffs in addition to providing general guidance to the courts, legal service providers, and public organizations through training about meeting the needs of self-represented litigants. The Committee shall from time to time recommend to the Supreme Court the implementation of policies and procedures that promote access to justice in the courts for self-represented litigants.

(3) Meetings and Compensation. The Indiana Supreme Court Planning Committee on Self-Represented Litigants shall meet not less than four times per year and other times at the call of the chair. The Committee shall act by vote of a majority of the members present at a committee meeting. All members who are public employees shall serve without compensation. Members who are not public employees shall receive a per diem compensation, as the Supreme Court shall

fix from time to time. All members shall receive mileage and reimbursement for reasonable expenses necessary for the performance of any duty incidental to service on the Committee.

E) Indiana Supreme Court Advisory Commission on Guardian ad Litem (“GAL”)/Court Appointed Special Advocate (“CASA”)

(1) **Creation, Members and Staff Support.** There is hereby created a commission to be known as the Indiana Supreme Court Advisory Commission on GAL/CASA. The Commission shall consist of eighteen (18) members representative of the Indiana judiciary and directors of certified, volunteer based GAL/CASA programs. The Commission shall include three GAL/CASA program directors and one member of the judiciary each from four regions of Indiana (North, South, East, West) and two at-large members of the judiciary. The Indiana Supreme Court shall appoint the members. The term of each member and the chair shall be three (3) years. The terms of the program directors shall be staggered so that one representative is appointed from each region every year. The terms of the judicial representatives shall also be staggered so that two judicial representatives are appointed each year. All members shall serve at the pleasure of the Supreme Court. The Commission members shall elect a Chair, Vice-Chair and other officers at the first meeting of the year. The Executive Director and of the Division of State Court Administration, the Division’s GAL/CASA Director and Division staff shall assist the Commission in the performance of its duties. The Division GAL/CASA Director shall serve as ex-officio member of the Commission.

(2) **Duties of the Commission.** The Indiana Supreme Court Advisory Commission on GAL/CASA shall conduct a continuous study of the GAL/CASA services in Indiana and shall provide support and guidance to the Indiana Supreme Court on how best to provide GAL/CASA services. The Commission’s charge includes but is not limited to providing a long-range strategy for promoting, expanding and training child advocacy GAL/CASA programs. The Commission shall from time to time review the GAL/CASA Program Standards and Code of Ethics and make recommendations to the Supreme Court for their improvement.

(3) Meetings and Compensation. The Commission shall meet at least quarterly and at such other times as called by the chair. The Commission shall act by a vote of a majority. For voting purposes, a simple majority of a nine-member quorum is required. All members who are public employees shall serve without compensation. Members who are not public employees shall receive a per diem compensation, as the Supreme Court shall fix from time to time. All members shall receive mileage and reimbursement for reasonable expenses for the performance of any duty incidental to service on the Commission.

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Rule 5. Payment and Notification Procedures

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(B) Senior Judges. The Division of State Court Administration shall administer the payment procedures for senior judges in accordance with the provisions set forth in this rule.

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(3) Qualification for Senior Judge Status. A former judge who is certified by the Indiana Judicial Nominating Commission may serve as senior judge. Each year the Indiana Judicial Nominating Commission shall certify to the Supreme Court that a former judge:

(a) (i) has served as an elected or appointed judge for at least four (4) years and (ii) at least one of those years was within five (5) years of the application or, in the event the four years of service as an elected or appointed judge was more than five (5) years prior to the application, has served at least thirty (30) days as a senior judge during a calendar year within five (5) years of the application; except that the Indiana Judicial Nominating Commission may, upon the finding of exceptional circumstances, waive the foregoing criteria and certify a senior judge with less service than specified above;

(b) agrees to serve as a senior judge for at least thirty (30) days in the year of appointment and has not in any previous year of service failed to serve for at least thirty (30) days without good cause as determined by the Indiana Judicial Nominating Commission.

(c) agrees to comply with the Code of Judicial Conduct; ~~and~~ further agrees to not

serve as an elected ~~or appointed~~ official or employee of a governmental entity or subdivision ~~outside the judicial branch of government~~ except with Supreme Court permission;

(d) agrees to serve where assigned; and that the service shall be substantially equivalent to the daily calendar of the court to which the senior judge is assigned;

(e) agrees to continue to serve in all special judge cases in which the former judge was serving as a special judge at the time the former judge left office as a regular judge without receiving senior judge credit for such service; however, upon the finding of exceptional circumstances at the discretion of the Supreme Court, a senior judge serving as a special judge may receive senior judge credit;

(f) agrees not to practice law in the courts in which the senior judge is appointed or assigned as senior judge;

(g) is fit to serve as a senior judge.

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Rule 6. Court Records Media Storage Standards

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(D) Microfilm Standards.

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(2) Legibility.

(a) Resolution.

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(iv) A computer-output microfilm system must produce quality index of not less than 5.0 for third-generation microfilm as measured according to *American National Standard Practice for Operational Practices/Inspection and Quality Control for Alphanumeric Computer-Output Microforms*. ANSI/AIIM MS1-1996.

(v) Conversion of archival data stored on a Digital Master [(E) (1) (g)],

may occur at a quality index level of 4.0, upon written pre-approval from the Division of State Court Administration.

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Rule 7. Judicial Retention Schedules

I. GENERAL

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CRIMINAL (2)

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05-2-35	Forensic Diversion Program	2004 - +	destroy 6 years after release of individual from final discharge
<u>05-2-36</u>	<u>Wiretap recordings under IC 35-33.5-5-2</u>	<u>1990 - +</u>	<u>Destroy after ten (10) years only upon an order of the court that issued the warrant.</u>
<u>05-2-37</u>	<u>Applications for wiretaps and corresponding warrants under IC 35-33.5-5-2</u>	<u>1990 - +</u>	<u>Destroy after ten (10) years only upon an order of the court that issued the warrant.</u>

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Rule 8. Uniform Case Numbering System

(A) Application. All trial courts in the State of Indiana shall use the uniform case numbering system as set forth under this rule.

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The third character in the first group shall represent the court of filing employing the following code:

- C Circuit Court
- D Superior Court
- E County Court
- F Superior Municipal Division
- G Superior Court/ Criminal Division
- H City Court
- I Town Court
- J Probate Court
- K Township Small Claims Court

The last two characters of the first group shall distinguish between courts in counties having more than one court of a specific type. The following code sets forth the county and court identifier for all courts:

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22C01 Floyd Circuit Court

22D01 Floyd Superior Court 1

22D02 Floyd Superior Court 2 (effective January 1, 2009, formerly Floyd County Court)

22D03 Floyd Superior Court 3 (effective January 1, 2009)

22E01 Floyd County Court (abolished January 1, 2009)

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36C01 Jackson Circuit Court

36D01 Jackson Superior Court 1

36D02 Jackson Superior Court 2 (effective January 1, 2008)

36E01 Jackson County Court (abolished)

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Rule 14. Audio/Video Telecommunication in Criminal, Juvenile, Mental Health, and Civil Proceedings

(A) Authority. A trial court may, in its discretion, conduct hearings and proceedings utilizing audio/video telecommunications pursuant to the provisions of this rule in the following circumstances:

- (1) In criminal proceedings, a court may utilize video telecommunications in conducting:
 - (a) Initial hearings pursuant to IC 35-33-7-1, 3, 3.5, 4 and 5, including any probable cause hearing pursuant to IC 35-33-7-2; determination of indigence and assignment of counsel pursuant to IC 35-33-7-6; amount and conditions of bail pursuant to IC 35-33-7-5(4), 35-33-8-3.1 and 4; and the setting of omnibus date pursuant to IC 35-36-8-1;
 - (b) Pre-trial conferences;
 - (c) The taking of a plea of guilty to a misdemeanor charge, pursuant to IC 35-35-1-2;
 - (d) Sentencing hearings pursuant to IC 35-38-1-2 when the defendant has given a written waiver of his or her right to be present in person and the prosecution has consented;
 - (e) With the written consent of the parties, post-conviction hearings pursuant to Ind. Post-Conviction Rule 1(5).
- (2) In mental health proceedings, a court may utilize video telecommunications in conducting:

- (a) Preliminary hearings in mental health emergency detention proceedings pursuant to IC 12-26-5-10;
- (b) Review hearings in mental health commitment proceedings pursuant to IC 12-26-15-2.
- (3) In juvenile proceedings a court may utilize video telecommunications:
 - a) When a child is alleged to be a delinquent child, for a detention hearing pursuant to IC 31-37-6 or a periodic review hearing pursuant to IC 31-37-20-2;
 - b) When a child is alleged to be a child in need of service, for a detention hearing pursuant to IC 31-34-5 or a periodic review hearing pursuant to IC 31-34-21-2;
- (4) In civil proceedings, witness testimony may be presented by audio/video telecommunications when the parties consent; ~~and~~
- (5) During a declared emergency under Ind. Administrative Rule 17; and
- (6)** In any other hearing or proceeding in which the parties waive their rights of appearance. All such waivers shall be entered on the Chronological Case Summary.

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Rule 17. Emergency petition for Administrative orders

(A) Supreme Court Authority. Under the authority vested in the Indiana Supreme Court to provide by rule for the procedure employed in all courts of this state and the Court's inherent authority to supervise the administration of all courts of this state, the Court has the power upon petition from any trial court as set forth herein, or sua sponte, in the event of natural disaster, civil disobedience, wide spread disease outbreak, or other exigent circumstances requiring the closure of courts or inhibiting the ability of litigants and courts to comply with statutory deadlines and rules of procedure applicable in courts of this state, to enter such order or orders as may be appropriate to ensure the orderly and fair administration of justice. This order shall include, without limitation, those rules and procedures affecting time limits currently imposed for speedy trials in criminal and juvenile proceedings, public health, mental health, appellate, and all other civil and criminal matters.

The Court also may authorize any petitioning court to move its location from its statutory location to any location the Court deems appropriate, and the Court may authorize any judge of a Circuit or Superior Court to exercise general jurisdiction over any civil or criminal matter.

(B) Trial court petition. When it becomes apparent to the local trial court(s) that an emergency exists, the local trial court(s) shall:

1. Confer with the clerk, bar representative and local official, as the trial court(s) deem necessary and appropriate.

2. Petition the Supreme Court for emergency relief stating: the emergency, the effect it is having or will have on the local administration of justice, the anticipated duration, and any additional information that would aid the Court in its decision making process.

3. Submit the trial court's plan for all civil and criminal matters during the emergency.

The petition shall be filed with the Clerk of the Court, with a copy provided to the Division of State Court Administration. The Division of State Court Administration shall create form petitions available for trial court use.

(C) When the Supreme Court determines that the petition is made for good cause shown, the Supreme Court may promptly issue an administrative order addressing the emergency on such terms and conditions as it deems appropriate.

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APPENDIX 17A

SAMPLE ADMINISTRATIVE RULE 17 PETITION

Come now the Courts of _____ County and petition the Supreme Court for relief under Ind. Administrative Rule 17. In Support of this petition, the courts inform the Supreme Court as follows:

1. The courts of _____ County have convened in banc and have determined:

A. That of the fifteen (15) staff personnel, of all the courts combined, nine (9) are absent because of the _____ virus and are expected to be absent for up to four (4) weeks.

B. That of the ten (10) clerk staff personnel, six (6) are absent because of _____ virus and are expected to be absent for up to four (4) weeks.

C. That three (3) of the five (5) judges are absent because of the _____ virus and are expected to be absent for up to four (4) weeks.

D. That the _____ County health department has declared a local health emergency, closed all local schools, banned all public gathering, and has issued quarantine orders.

E. That the local courts have appointed Judge _____ as the presiding Judge for this emergency.

The judges of _____ County request that the Supreme Court declare that an emergency exists in _____ County under the authority of Ind. Admin. R. 17, and to make appropriate emergency orders for _____ County directing and allowing the courts and clerk of _____ County to alter, modify, and suspend necessary procedures as provided in the emergency plan submitted herewith, so as to appropriately address this emergency.

DONE at Indianapolis, Indiana, this _____ day of _____, 20__.

Judge

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These amendments shall take effect January 1, 2008.

The Clerk of this Court is directed to forward a copy of this Order to the clerk of each circuit court in the state of Indiana; Attorney General of Indiana; Legislative Services Agency and its Office of Code Revision; Administrator, Indiana Supreme Court; Administrator, Indiana Court of Appeals; Administrator, Indiana Tax Court; Public Defender of Indiana; Prosecuting Attorney's Council; Indiana Supreme Court Disciplinary Commission; Indiana Supreme Court Commission for Continuing Legal Education; Indiana Board of Law Examiners; Indiana Judicial Center; Division of State Court Administration; Indiana Judges and Lawyers Assistance Program; the libraries of all law schools in this state; the Michie Company; and the West Group.

The West Group is directed to publish this Order in the advance sheets of this Court.

The Clerks of the Circuit Courts are directed to bring this Order to the attention of all judges within their respective counties and to post this Order for examination by the Bar and general public.

DONE at Indianapolis, Indiana, this _____ day of September, 2007.

Randall T. Shepard
Chief Justice of Indiana

All Justices concur.